

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LAMBDA LABS, INC.,

Plaintiff,

v.

LAMBDA, INC.,

Defendant.

Case No. 19-cv-04060-JST (TSH)

DISCOVERY ORDER

Re: Dkt. No. 71

In ECF No. 71, Lambda School argues that ESI discovery should be phased. Lambda Labs disagrees.

In cases where we have all the time in the world, and this isn't one of them, phasing discovery can make sense if the Court will make a decision after the first phase that could render the later phases unnecessary or significantly change their scope. One example is a phase in which discovery is initially limited to class certification issues, followed by briefing and a decision on a motion to certify the class. The result of that motion will have a significant effect on the scope of merits-related discovery. But if there isn't some event that is going to happen after the first phase of discovery that could moot or alter what happens in the next phase, then "phasing" discovery just introduces delay without any concomitant increase in efficiency. Here, Lambda School doesn't identify the event that will happen at the end of its proposed first phase of discovery that will change the scope of the second phase. It vaguely suggests that after the parties have become more educated about the case, they won't want all the discovery they are currently seeking and will want only more targeted items. The Court supposes that is possible, but it seems speculative, and it is just as likely the opposite might happen. Because there isn't any obvious event that will occur in or after the first phase of discovery that will moot or significantly alter the next phase,

1 there is no benefit to phasing discovery.

2 And regardless, there isn't time. Fact discovery closes in six months, ECF No. 65, and the
3 parties haven't even resolved how many custodians they will collect documents from. *See* ECF
4 No. 70. It also appears they have not yet reached an agreement on the non-custodial data sources
5 to collect from. *See id.* There is barely enough time to collect and produce documents and take
6 depositions. And with the Covid-19 pandemic, everything seems to take longer than it otherwise
7 would. We can't subdivide the next six months into discrete phases of discovery; that is
8 completely impractical. Lambda School's motion to phase ESI discovery is denied.

9 **IT IS SO ORDERED.**

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11 Dated: June 15, 2020

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13 THOMAS S. HIXSON
14 United States Magistrate Judge
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